

REMARKS

The Office Action mailed on February 18, 2005 is acknowledged. Applicant respectfully requests entry of the above-amendments and consideration of the following remarks.

Entry of Amendment is Proper and Does Not Raise New Issue

Applicant respectfully submits that entry of the above-amendments is proper, under Rule 116, as the amendments raise no new issues and narrow the claim scope sufficiently to place the claims in a condition for allowance.

The amendments do not raise new issues as the element amended into claim 1 and claim 12 (i.e., “animal product comprises at least one type of meat”) is merely a narrower scope or subset of the animal product element already searched and examined in the previous Office Actions. In fact, the claims and title of the invention have always recited that the composition is a “meat-based” composition. The amendments do not change this examined scope of subject matter and issues, but instead narrow and more specifically clarify that the composition is “meat-based”.

Basis for the amendments can be found throughout the specification. Specific examples of the animal product comprising meat can be found at least at paragraph [005]: “The animal product (‘meat’) desired by carnivorous animals may include *any type of meat* product”

Rejection of Claims 1-20 Because of the Specification

The Examiner has rejected claims 1-20, under 35 U.S.C. § 112, first paragraph, as allegedly being unpatentable because the specification does not reasonably provide enablement for a copolymer carrying agent. The Examiner asserts that the Specification does not enable any person skilled in the art to make and use the invention commensurate in scope with these claims. Specifically, the Examiner states:

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The specification fails to disclose any examples of copolymers which can be used by the skilled artisan to make applicant's invention. The only suggestion of any copolymer is with reference to a polyethylene product identified by trademark only (pages 3-4). However, since the trademark is arbitrary, and the product represented thereby may change from time to time, applicant's description of the copolymer is non-enabling.

Applicant respectfully disagrees. The specification discloses and teaches at least two examples of copolymers. In both of these examples, a very detailed disclosure is provided of the physical properties and characteristics of the copolymer. Applicant submits that these disclosed physical properties and characteristics would allow a person skilled in the art to readily select a suitable copolymer for use with the invention.

The science and technology of copolymer materials is not a particularly new one. The physical properties and characteristics provided in the specification would abundantly provide one skilled in the art with enough information to design and/or select any number of suitable copolymers. In fact, given these physical properties, one skilled in the art could identify and select a bevy of copolymer products that are available "off-the-shelf". The disclosure of the two trademark names (ALATHON® H 5618 and DuPont Dow Elastomers ENGAGE® 8411) are merely used as non-limiting examples of two contemporary off-the-shelf products that fall within the range of the disclosed copolymer physical properties.

Even without disclosure of the trademark names, enablement is provided to one skilled in the art by the two tables describing the physical properties of copolymers suitable for embodiments of the invention. The first such table provides the physical properties of a "polyethylene, high density copolymer" suitable "to produce a relatively soft meat-based injection molded chew product." (Para. [009]) The second such table provides the physical properties of a elastomer/copolymer suitable "to produce a relatively hard meat-based injection molded chew product." (Para. [010]) These two tables each comprise an enabling example of a specific copolymer suitable for use and combination in the present invention.

For at least the foregoing reasons, Applicant respectfully submits that the specification reasonably provides enablement for a copolymer carrying agent. As such, Applicant respectfully requests that the rejections, under 35 U.S.C. § 112, first paragraph, of claims 1-20

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be removed from the present application and that the application be found in a condition for allowance.

Rejection of Claims 1-3 and 5-20 over Axelrod et al.

The Examiner has rejected claims 1-3 and 5-20, under 35 U.S.C. § 103(a), as being unpatentable over Axelrod et al. (6,586,027).

Claims 1 and 12, upon entry of the above-amendments, have been amended to recite that the “animal product comprises at least one type of meat.”

Applicant respectfully submits that, inter alia, Axelrod does not disclose or teach all the elements and limitations of the present invention as claimed. In particular, Axelrod does not disclose or teach an “animal product comprises at least one type of meat.” Axelrod does not disclose use of meat of any type in the disclosed animal chew toy. Axelrod teaches away from using meat of any type by utilizing denatured and partially hydrolyzed collagen in the disclosed preferred embodiments.

For at least the foregoing reason, Applicant respectfully submits that claims 1-3 and 5-20 distinguish over any and all disclosure and teaching of Axelrod. As such, Applicant respectfully requests that the rejections, under 35 U.S.C. § 103(a), of claims 1-3 and 5-20 be removed from the present application and that the application be found in a condition for allowance.

Rejection of Claim 4 over Axelrod and Gluck et al.

The Examiner further rejected claim 4, under 35 U.S.C. § 103(a), as being unpatentable over Axelrod as applied to claims 1-3 and 5-20, and further in view of Gluck et al.

As discussed above with regard to the rejections of claims 1-3 and 5-20, Axelrod does not disclose or teach utilization of meat of any type. This lack of disclosure is not helped by the disclosure of Gluck et al. In fact, Applicant respectfully submits that Gluck et al. further and strongly teaches away from the element of meat as Gluck et al. discloses and teaches a “*Vegetarian* pet treat”.

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For at least the foregoing reason, Applicant respectfully submits that claim 4 distinguishes over any and all disclosure and teaching of Axelrod and/or Gluck et al. As such, Applicant respectfully requests that the rejection, under 35 U.S.C. § 103(a), of claim 4 be removed from the present application and that the application be found in a condition for allowance.

The Office Action states that “Although Axelrod et al is silent as to the amount of copolymer, as applicant argues, Axelrod et al clearly recognizes the need for using a copolymer in a pet chew product. In the absence of unexpected results the claimed amount thereof is not deemed to be critical.” Applicant respectfully disagrees. Applicant respectfully submits that, *inter alia*, Axelrod does not recognize the need for using a copolymer—much less in the percentages recited in the claims of the present invention. However, Applicant also respectfully submits that any contention over copolymer disclosure is rendered moot by the amendment to recite “animal product comprises at least one type of meat.”

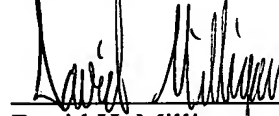
Conclusion

For the reasons set forth above, Applicant believes all pending claims are allowable. Accordingly, Applicant believes that the present application is in condition for allowance and respectfully requests passage thereof. Applicant invites the Examiner to contact Applicant's undersigned representative should there be any remaining issues in the application.

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Please charge any underpayment of fees due in connection with the filing of this paper to Deposit Account No. 50-3380 and please credit any excess fees to such deposit account.

Respectfully submitted,



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